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|   |             |                      |                             |                  |
|---|-------------|----------------------|-----------------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
| 09/940,762  | 08/27/2001  | Mark E. Pecan        | CS99025RL                   | 5766             |
| 20280 7590 01/23/2007<br>MOTOROLA INC<br>600 NORTH US HIGHWAY 45<br>ROOM AS437<br>LIBERTYVILLE, IL 60048-5343 |             |                      | EXAMINER<br>NGUYEN, THUAN T |                  |
|   |             |                      | ART UNIT                    | PAPER NUMBER     |
|   |             |                      | 2618                        |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE               |                  |
| 3 MONTHS  |             | 01/23/2007           | PAPER                       |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/940,762

Applicant(s)

PECEN ET AL.

Examiner

THUAN T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Response to Pre-Appeal Brief*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

4. Claims 1, 8, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Smyth et al. (U.S. Patent 6,347,224 B1).

Regarding claims 1, 8, and 17, Smyth discloses a real-time and interactive communication system and its corresponding method in a (mobile wireless, for claims 8 and 17) communication application, comprising “transmitting a request from the communication to a communication server for a cost to conduct a communication transaction; receiving from the communication server, in response to the request, a cost offer for the transaction before the

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communication application conduct the transaction”, i.e., a user at a mobile device (Figs. 1, 3 & 9 and col. 5/lines 40-65 & col. 4/lines 47-61) can request for a cost to conduct a communication transaction and selects the cost offer for the transaction before the transaction takes place (refer to col. 3/lines 13-30 & col. 4/lines 48-61 & col. 10/lines 35-57 for details on the cost of transaction (for a call) is requested, and the cost is provided to the requester before the requester decides whether to use the transaction service with the cost offered or not).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

6. Claims 2-7, 9-16, and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyth et al. (US Patent 6,347,224 B1) in further view of Joao et al. (U.S. Patent No. 5,878,337).

For claim 2, Smyth does not goes further details on the transaction process for “receiving a cost offer including at least a communication service cost component”; however, in the same filed of providing interactive goods and services to users, Joao further discloses the further steps of requesting, selecting, rejecting or accepting the (offer) cost of transactions before hand and the cost of components, an amount of information of the transaction, and subscription information associated with the application (col. 18/lines 45-56 for the cost of transaction and the cost of components or broken down components for the amount of transaction further includes

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supplement information such as the costs of goods and services as well as the time and location for each transaction including components and limits for each transaction with user's information, see col. 16/lines 13-35). Therefore, it would have been obvious to one of ordinary skill in the art to modify Smyth's system with Joao's further details on how to handle the transaction process in order to provide an enhanced communication system for providing details on transaction on an interactive basis.

As for claims 3-7, in further of claim 2 above, Joao further discloses the further steps of requesting, selecting, rejecting or accepting the (offer) cost of transactions before hand and the cost of components, an amount of information of the transaction, and subscription information associated with the application (col. 18/lines 45-56 for the cost of transaction and the cost of components or broken down components as in **claim 3** for the amount of transaction further includes supplement information such as the costs of goods and services as well as the time and location for each transaction including components and limits for each transaction with user's information, see col. 16/lines 13-35); then the steps of receiving the costs and the user charges his/her credits based on at least partly on the credit to the user of the communication application including a cost offer based partly on the credit to a user of the communication application for conducting the transaction with restrictions and limitations (col. 16/lines 13-35), through a authorization process whether to authorize or unauthorized the transactions (Figs. 9 & 9 (cont.) for **claim 6**). The entire process is conducted within a wireless communication network (see col. 3/line 60 to col. 4/line 56; col. 5/lines 3-39; col. 7/line 30 to col. 8/line 22 for transaction information including authorization, spending limits, types of transactions or a cost offer, types of goods and services or in other words, the quality of communications service, daily spending

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limits, and other limitations (as for **claim 4-5**); col. 8/line 60 to col. 9/line 53 for security issues; and col. 11/lines 25-59 for Internet accesses as well as transactions in real-time). Joao further includes a server computer to handle the transactions between vendors and users interactively (Fig. 10/item 350; and col. 35/lines 19-59 for **claim 7**).

As for claims 9-16 and 18-23, these claims with same limitations are rejected for the reasons given in the scope of claims 2-7 with the disclosure and teaching of Joao as disclosed above (see Joao reference for further details & embodiments not limited to any type of any communication systems (col. 4/lines 32-41) and to any type of receiving either stationary or wireless/mobile apparatus (col. 5/lines 3-19) as well as offer the reliability of the wireless transaction cost to the wireless communication device by providing security measures per claim 23 (col. 11/line 65 to col. 12/line 15).

### ***Conclusion***

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to the New Central Fax number:**

(571) 273-8300, (for Technology Center 2600 only)

Hand deliveries must be made to Customer Service Window,

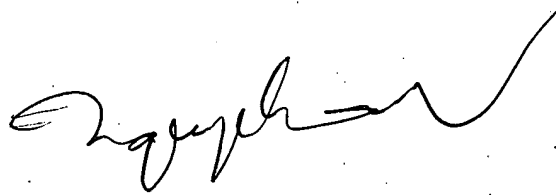
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

**8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895.**

The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tony T. Nguyen', with a stylized, flowing script.

**TONY T. NGUYEN  
PATENT EXAMINER**

Tony T. Nguyen  
Art Unit 2618  
January 16, 2007